

REVISED LAWS OF MINNESOTA *94*

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

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1910

3333. Urban real estate—Holding over.

In general.—A verbal agreement to make improvements, in consideration of which a lease was executed, remained obligatory upon the lessor during the term, and if thereafter the lessee remained in possession and becomes a tenant from month to month, such agreement was presumed to remain in force. *Slafter v. Siddall*, 97 Minn. 291, 106 N. W. 308.

CHAPTER 63.

CONVEYANCES OF REAL ESTATE.

3334. Terms defined—Mortgages, etc., included.

Conveyance—Personal covenant.—An agreement by an owner of land with an adjoining owner that for 10 years he will not permit intoxicating liquor to be sold on the premises does not run with the land, and, although executed by the owner on behalf of his heirs, executors, and assigns, is merely his personal covenant, and is not a conveyance, and the record thereof does not constitute constructive notice to a subsequent purchaser, who takes the legal title by a conveyance which is silent as to the covenant. *Sjoblom v. Mark*, 103 Minn. 193, 114 N. W. 746, 15 L. R. A. (N. S.) 1129.

See note under section 3357.

Mortgage.—In an action to have a deed declared a mortgage, findings that the deed was absolute, based upon a fair consideration, and justly obtained by defendant, were sustained by the evidence. *Webster v. McDowell*, 102 Minn. 445, 113 N. W. 1021.

3335. Conveyances by husband and wife—Powers of attorney.—

A husband and wife, by their joint deed, may convey the real estate of either. The husband, by his separate deed, may convey any real estate owned by him, except the homestead, subject to the rights of his wife therein; and the wife, by her separate deed, may convey any real estate owned by her, except the homestead, subject to the rights of her husband therein; and either husband or wife may by separate conveyance relinquish his or her rights in the real estate so conveyed by the other. Subject to the foregoing provisions, either husband or wife may separately appoint an attorney to sell or convey any real estate owned by such husband or wife, or join in any conveyance made by or for the other. The minority of the wife shall not invalidate any conveyance executed by her. (R. L. § 3335, as amended by Laws 1907, c. 123, § 1.)

Section 2 repeals inconsistent acts.

See section 3607.

Deed of wife.—The mere fact that a transfer of a land contract was invalid, because not also signed by the transferor's husband, did not entitle the husband and wife to have the deed set aside in equity and the title confirmed in the wife, where it appeared that the transferee in fairness should have held the legal title. *Laythe v. Minnesota Loan & Investment Co.*, 101 Minn. 152, 112 N. W. 65.

[3335—]1. Purchase-money mortgage—Nonjoinder of spouse.—When a husband or wife purchases land during coverture, and mortgages his or her estate in such land to secure the payment of the purchase price or any portion thereof, the surviving spouse shall not be entitled to any inchoate or contingent right in such land as against the mortgagee or those claiming under the mortgagee although such survivor did not join in such mortgage. (Laws 1909, c. 29, § 1, as amended by Laws 1909, c. 465, § 1.)

Historical.—“An act defining the status of a purchase money mortgage with reference to the inchoate or contingent right of the husband or wife in lands thereby mortgaged,” approved February 26, 1909 (Laws 1909, c. 29), as amended by Laws 1909, c. 465.

[3336—]1. Conveyances by husband to wife—Curative.—That all conveyances of real property within this state made between the first day of January, eighteen hundred and eighty-eight and the first day of January, eighteen hundred and ninety-three, in which a married man has conveyed real property directly to his wife, shall be

and the same are hereby declared to be legal and valid, and the records of such conveyances heretofore actually recorded in the office of the proper county, shall be in all respects valid and legal, and such conveyances and records thereof shall have the same force and effect in all respects for the purpose of notice, evidence or otherwise, as are or may be provided by law in regard to conveyances in other cases. Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts in this state; provided (further), that this act shall not be construed to extend to any case where vested rights in any such property have been acquired by third parties. ('05 c. 112 § 1)

Historical.—"An act to legalize conveyances of real property made by husband direct to wife, and the records of such conveyances." Approved April 5, 1905.

[3336—]2. **Same.**—That all conveyances of real property within this state, made between the 2nd day of April, 1906, and the 4th day of April, 1906, in which a married man has conveyed real property directly to his wife, shall be and the same are hereby declared legal and valid and entitled to be recorded and the records of such conveyances, when recorded in the office of the proper county, shall be in all respects valid and legal, and such conveyances and records thereof shall have the same force and effect in all respects for the purpose of notice, evidence or otherwise, as are, or may be, provided by law, in regard to conveyances in other cases. Provided, that the provisions of this act shall not apply to any act or proceedings now pending in any of the courts in this state; provided, further, that this act shall not be construed to extend to any case where vested rights in any such property have been acquired by third parties. ('07 c. 432 § 1)

Historical.—"An act to legalize certain conveyances of real property made by husband to wife." Approved April 25, 1907.

[3336—]3. **Conveyances by husband to wife—Curative.**—That all conveyances of real property within this state made between the 26th day of June, 1907, and the 28th day of June, 1907, in which a married man has conveyed real property directly to his wife, and the records of such conveyances which have been recorded in the office of the register of deeds of the proper county in this state, shall be, and the same are hereby declared legal and valid, and such conveyances and the records thereof shall have the same force and effect in all respects for the purpose of notice, evidence, or otherwise, as are or may be provided by law regarding conveyances in other cases; and the rights of any grantee under such a deed shall not be affected by the grantor having died, or by such grantee having subsequently applied for or obtained letters of administration upon the estate of such deceased grantor, or by the land conveyed by any such deed having been set apart as a homestead to such grantee as the widow of such deceased grantor by a probate court in this state. Provided, that the provisions of this act shall not apply to any action or proceedings in any courts of this state, other than the probate proceedings above specified. Provided further, that this act shall not impair vested rights heretofore acquired by third parties in such property for value. ('09 c. 55 § 1)

Historical.—"An act to legalize certain conveyances of real property made by husband to wife." Approved March 12, 1909.

3338. Husband or wife of insane person.

Laws 1891, c. 75, cited in *Lucy v. Lucy*, 120 N. W. 754.

3340. Quitclaim—Words of inheritance unnecessary to pass fee.

Quitclaim deed.—Where a contract for sale of land contained a stipulation that the grantor would, upon payment of the price, convey and assure the land to the grantee by a good and sufficient quitclaim deed, the grantor was required

to do no more than to quitclaim his interest in the land. *McNellis v. Hilkowski*, 98 Minn. 127, 107 N. W. 965.

Conveyance in presenti—Estoppel.—Under an indenture, which was, in effect, a conveyance in presenti and not an agreement for a conveyance, the grantors were estopped from subsequently taking a conveyance of the same premises and asserting the same against their grantee. *Bradley Estate Co. v. Bradley*, 97 Minn. 161, 106 N. W. 110.

3341. Warranty and quitclaim deeds.

Covenant of warranty.—A warranty deed of the west 5 acres of lot 12 in section 1, etc., conveyed and warranted the full quantity named. *Larson v. Goetti*, 103 Minn. 272, 114 N. W. 840.

3350. Judgments.

Laws 1897, c. 76, cited in *Kipp v. Clinger*, 97 Minn. 135, 106 N. W. 108.

3357. Recording act—Unrecorded conveyances void, when.

Notice—Possession.—Actual possession is notice to all the world of the title and rights of the person in possession, and of all facts connected therewith which reasonable inquiry would disclose. The rule applies to one redeeming from a foreclosure of land, which, at the time of redemption, is in the actual possession of a person other than the mortgagor. *Niles v. Cooper*, 98 Minn. 39, 107 N. W. 744, 13 L. R. A. (N. S.) 49.

Cited in *Henderson v. Murray*, 121 N. W. 214.

— **Instrument not entitled to record.**—Where a mere personal covenant not running with the land, although recorded, is not contained in a deed or indenture in the chain of title, subsequent purchasers and assigns are not bound thereby, unless they have such knowledge or notice thereof as to imply that the burden was assumed as a part of the consideration. *Sjoblom v. Mark*, 103 Minn. 193, 114 N. W. 746, 15 L. R. A. (N. S.) 1129.

See note under section 3334.

CHAPTER 64.

PLATS.

3366. Survey and plat — Monument — Rivers, lakes, etc.—The land shall be surveyed and a plat made setting forth and naming all thoroughfares, showing all public grounds, and giving the dimensions of all lots, thoroughfares and public grounds. In-lots shall be numbered progressively, or by the block in which they are situated, and out-lots shall be numbered and shall not exceed ten acres in size. At least three iron or stone monuments shall be placed at some corners in the ground, in such way that the lines between said monuments form two or more base lines from which to make future surveys. The monuments and the angles between said base lines shall be shown on the plat, as well as the north and south line. All rivers, streams, creeks, lakes, ponds, swamps and all public highways and thoroughfares laid out, opened or traveled—existing before the platting—shall be correctly located and plainly shown and designated on the plat. (R. L. § 3366, as amended by Laws 1907, c. 438, § 1.)

3367. Dedication — Certification — Approval — Verification.—On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. Said instrument shall contain a full and accurate description of the land platted and shall set forth what part or parts of said land is dedicated, and also to whom, and for what purpose said part or parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown on the plat. If